



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SW

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,888	09/16/2003	William Scott Carmichael	C0959.10.U	4499
29633	7590	08/12/2004	EXAMINER	
ROGERS TOWERS, P.A. 1301 RIVERPLACE BOULEVARD, SUITE 1500 JACKSONVILLE, FL 32207			ZEC, FILIP	
			ART UNIT	PAPER NUMBER

3744

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,888

Applicant(s)

CARMICHAEL ET AL.

Examiner

Filip Zec

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-15 and 17-27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,614,017 to Nuhrah et al. Looking at FIG. 3 of Nuhrah, one notices all elements claimed by the applicant, namely an icebox container (1, FIG. 10) for cooling cans or bottles (4), by direct contact with ice water (col 1, lines 50-54), having a main compartment (2a) accessible from top via a lid (10), a vertically oriented chute (2b) having a lower opening (FIG. 3a) for providing ingress into the main compartment, a removable ramp (5) for directing the cans along the bottom of the container and a divider (2c) between the chute and the main compartment. Claim 5 of Nuhrah also teaches that the entire structure (2) is used as an insert and, therefor, can be removed from an icebox. Since the whole structure is removable, the retaining means claimed presently by the applicant with respect to either a divider or a main compartment, is the outer lip (1, FIG. 1). Finally, the hinged lever arm (5) can hold the bottles and cans and represents the horizontal shelf parallel to the bottom presently claimed by the applicant.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3744

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,614,017 to Nuhrah et al. Nuhrah discloses applicant's basic inventive concept, an icebox container (FIG. 3) for cooling cans or bottles (34), by direct contact with ice water (claim 6), having a main compartment (22, 24) and a vertically oriented chute (36) having a lower opening (at 46) for providing ingress into the main compartment, substantially as claimed with the exception of having the main compartment accessible from its top via a lid. However, Nuhrah does show the lid (38, FIG. 2) for the chute. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Nuhrah to modify the system by using the lid in the chute in order to access the main cooling compartment.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,614,017 to Nuhrah et al., in view of U.S. Patent 4,509,587 to Clark et al. Nuhrah discloses applicant's basic inventive concept, an icebox container for cooling cans or bottles, by direct contact with ice water, having a main compartment accessible from top via a lid, a vertically oriented chute having a lower opening for providing ingress into the main compartment, a removable ramp for directing the cans along the bottom of the container and a divider between the chute and the main compartment, substantially as claimed with the exception of stating the use of apertures in the dividing wall. Clark shows this features to be old in the cooling art (102, FIG. 5). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Clark to modify the system of Nuhrah, by adding apertures in the dividing wall in order to provide for the flow of the cooling fluid into the chute.

Drawings

6. New corrected drawings in compliance with 37 CFR 1.121(d), are required in this application because the current drawings contain handwritten numbers, not acceptable by USPTO standards. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 4,499,998 to Carlson, Arthur R.

U.S. Patent 6,536,228 to Hall, Matthew C.

U.S. Patent 5,915,551 to Vavro, David J.

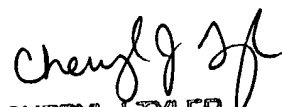
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip Zec whose telephone number is (703) 306-3446. The examiner can normally be reached on Monday through Friday, with the exception of every other Friday.

Art Unit: 3744

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Filip Zec
Examiner
Art Unit 3744


CHERYL J. TYLER
PRIMARY EXAMINER

FZ